



TOWN OF FRAMINGHAM ZONING BOARD OF APPEALS

NOTE TO PROSPECTIVE APPLICANTS

Before you apply to the Zoning Board of Appeals:

Prior to filing a hearing application, you must discuss your plans or situation with a Building Official in the Building & Wiring Department. If your project needs a building permit and does not meet the requirements of the Town of Framingham Zoning Bylaws, your building permit will be denied, signed by the Building Official and the section of the bylaw and type of permit required will be listed.*

When the Building Official has indicated your building permit will be denied as stated above, you then have the right to appeal the denial of the Building Official. If you decide to do so, and the Building Official indicates the Zoning Board of Appeals is the Special Permit Granting Authority for your particular project, you would then file an application for a hearing before the Zoning Board of Appeals.

*** An Appeal of an Issued Building Permit:** If a Building Official issues a building permit to another party, you do not agree with the issuance and you are a person in interest (have a legitimate, legal interest), you may appeal it through the Zoning Board of Appeals. An appeal of an issued or denied building permit must be filed with the Town Clerk's office within 30 days of the date on which the Building Official signed the building permit.

The ZBA Application Package consists of the following 4 documents:

1) ZBA Application for Hearing

The Application for Hearing form consists of the following three sheets:

- a) ZBA Application for Hearing
- b) Treasurer/Collector Information Sheet
- c) Financial Disclosure Information Sheet

2) Abutter Request Form

The filing of this form will generate a list of abutters within 300 feet of your property. This list will be used to send hearing and decision notices pertaining to your project to your abutters. These notices are created and distributed by the ZBA administrative assistant. **THIS DOCUMENT MUST BE SIGNED BY AN EMPLOYEE OF THE ZBA OFFICE PRIOR TO BEING SUBMITTED TO THE ASSESSORS OFFICE.**

Please fill in the date, applicant name, address and phone and subject property information.

Please Note: The Assessors Office will fill in the (Sheet/Block/Lot) information. Please do not fill in this information yourself.

3) Information to Applicants

This document includes instruction on what documents need to be filed with your ZBA hearing application, as well as information on the types of filings.

Also included are **CRITERIA** required under the Zoning Bylaws for granting of a Special Permit, Variance, Finding or Appeal. **PLEASE READ THIS INFORMATION CAREFULLY.** You will be asked to address these criteria, as they apply to your requested relief, by the Zoning Board of Appeals at your public hearing. If you have any questions, please do not hesitate to call the ZBA office @ **508-628-1306**.

Application Packet Check List

Please use this form to make sure you have included all the information necessary to file your hearing application in the packet form and quantity requested.



Town of Framingham - Zoning Board of Appeals

Application for Public Hearing

Applicant's Name & Address: _____ Telephone: _____

Location & Street Address of Site (including intersecting streets, adjoining buildings, identifying signs): _____

Name of Proposed Business/Development: _____

Record Owner's Name & Address: _____

Record Owner's Telephone: _____

Zoning District(s) of Parcel(s): _____

Framingham Assessors Plan: _____ Sheet: _____ Block: _____ Lot(s): _____

Town Meeting/Voting Precinct: _____

Current Use of Property: _____

Are past Special Permits, Variances or Non-Conforming use now applicable to property in question? Please explain: _____

Applicant is owner, tenant or other: _____

Nature of application or appeal (Brief explanation of project and permit required): _____

The undersigned hereby certifies that the information on this application and plans submitted herewith are correct, and that the application complies with all applicable provisions of Statutes, Regulations and Bylaws to the best of his/her knowledge.

Signature of Applicant or Attorney _____ Date _____ Telephone _____

Record Owner's Knowledge and Consent

Signature of Property Owner _____

I have received a copy of the ZBA Information to Applicants

Signature of Applicant _____ Date _____

Section of the Zoning Bylaw under which the building application was denied: _____

Filing Fees: ☐ Variance, Finding & Appeal: \$250 ☐ Special Permit: \$300

Date Check Received: _____ Check Number: _____

Hearing Date (date subject to change): _____

Filed in the Office of the Town Clerk on: _____

Town of Framingham
Financial Disclosure Information Sheet

Please disclose all parties with a financial interest in the petition, and/or property, that you are submitting before this Board:

Please disclose any knowledge of dealings, financial or otherwise, that you or anyone connected with you may have, now or in the past, to any of the current members of the Zoning Board of Appeals:

I/we give permission to the Zoning Board members to enter onto the property at _____, for which this petition is being sought, to investigate or obtain any information required to make a complete and sound decision. Any such viewing would be conducted between the hours of 8:00 A.M. and 7:00 P.M. and in no event after dusk.

Signature _____ Date _____

Town of Framingham
Treasurer/Collector Information Sheet

Please provide our office with the following information:

Date: _____

Address of property which is the subject of this application:

PROPERTY OWNER'S Name (As appears on Assessor's Records):

PROPERTY OWNER'S Address: (As appears on Assessor's Records):

APPLICANT'S Name: (If same as Owner, write: SAME)

APPLICANT'S Address: (If same as Owner, write: SAME)

Business(s) in Framingham owned by PROPERTY OWNER and/or APPLICANT:

Telephone of PROPERTY OWNER or APPLICANT:

Name: _____

Phone Number: _____



TOWN OF FRAMINGHAM, MASSACHUSETTS 01702

BOARD OF ASSESSORS

MEMORIAL BUILDING, 150 CONCORD STREET, TEL: (508) 620-4857

Abutter Request

Date: _____

- Applicant Name: _____
- Applicant Address: _____
- Phone: _____
- Subject Property
Address: _____
- Map _____ Block _____ Lot _____
- Radius: 300 feet
- Department/Board: ZBA
- Signature from requesting
authority: _____
- **Fee: \$45.00** to be paid at the
Assessing Department
- *Signed under the pains and penalties
of perjury*

ZONING BOARD OF APPEALS

Information to Applicants

**IT IS VERY IMPORTANT THAT THIS NOTICE BE READ AND UNDERSTOOD
BEFORE APPEARING AT YOUR ZONING BOARD HEARING.**

The Zoning Board is a quasi-judicial board. It is empowered to grant Special Permits and Variances to the Zoning By-Law of the Town of Framingham as set forth by Chapter 40A of the Massachusetts General Laws. The decision of the Board may, and in most instances will, be noted and attached to the deed of the property in question.

APPLICATIONS

All petitions before the Board shall contain the name and address of the petitioner, the name and address of the owner(s) of the property if different from the petitioner, a plot plan prepared by a professional land surveyor or civil engineer, the nature of the relief being sought, a concise statement of the facts upon which relief is predicated, the zoning district and Town Meeting Precinct in which the subject property is located, and shall require the following materials.

Once an application is determined complete and filed with the ZBA and the Town Clerk, the ZBA will schedule a public hearing within sixty-five (65) days of receipt of the application.

A. DIMENSIONAL VARIANCE

The applicant shall file 16 copies of the FIRST PAGE of the application form and such documents or instruments as may be required to support the requested variance with the Zoning Board of Appeals together with seven (8) full size copies and eight (8) half size (11"x17") sets of plans showing the dimensions of the lot in question and a locus of existing buildings and proposed structures, drive- ways, roads and ways in existence or to be used. (Engineering plans are required for more complex appeals.) In addition, one copy of the Property Tax Map sheet shall be provided as a locus plan. Minimum size of site plan required is 1" = 40'.

B. USE VARIANCE

The applicant shall file 16 copies of the FIRST PAGE of the application form and such documents or instruments as may be required to support the requested variance with the Zoning Board of Appeals together with seven (8) full size copies and eight (8) half size (11"x17") sets of plans, including but not limited to, architectural renderings, landscaping renderings, contoured drawings, and parking layout plans, as may be required to support the requested variance. Submission of briefs, proposed findings of fact and proposed findings of law may be required only when requested by the Board or staff. In addition, one copy of the Property Tax Map sheet shall be provided as a locus plan. Minimum size of site plan required is 1" = 40'.

C. SPECIAL PERMIT

The applicant shall file 16 copies of the application form and such documents or instruments as may be required to support the requested variance with the Zoning Board of Appeals together with seven (8) full size copies and eight (8) half size (11"x17") sets of plans, including but not limited to, architectural renderings, landscaping renderings, contoured drawings, and parking layout plans, as may be required to support the requested special permit. Submission of briefs, proposed findings of fact and proposed findings of law may be required only when requested by the Board or staff. In addition, one copy of the Property Tax Map sheet shall be provided as a locus plan. Minimum size of site plan required is 1" = 40'.

D. FINDING

The applicant shall file 16 copies of the application form and such documents or instruments as may be required to support the requested variance with the Zoning Board of Appeals together with seven (8) full size copies and eight (8) half size (11"x17") sets of plans, including but not limited to, architectural renderings, landscaping renderings, contoured drawings, and parking layout plans, as may be required to support the requested finding. Submission of briefs, proposed findings of fact and proposed findings of law may be required only when requested by the Board or staff. In addition, one copy of the Property Tax Map sheet shall be provided as a locus plan. Minimum size of site plan required is 1" = 40'.

PUBLIC HEARING

On the night of your hearing, three members of the Zoning Board will hear your petition. To grant a Variance or a Special Permit, the Board must find unanimously in the petitioner's favor. It is, therefore, imperative that the petition be presented in a clear, concise manner.

In addition, and **THIS IS VERY IMPORTANT**, in order to obtain the desired relief or special permit the petitioner shall be prepared to satisfy the Board of Appeals of the following.

It Is Essential For The Applicant To Realize That There Is No Guarantee The Requested Relief Or Special Permit Will Be Granted.

A. VARIANCE - An Applicant must demonstrate:

1. There are circumstances relating to the soil conditions, shape or topography of the land or structures for which the Variance is being sought.
2. Such circumstances especially affect such land or structures but do not affect generally the zoning district in which the land or structures are located.
3. Owing to such circumstances, a literal enforcement of the provisions of the By-Law would involve substantial hardship, financial or other- wise, to the petitioner or appellant.
4. The desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the By-Law or from the intent of the district in which the Variance is being sought.

A Variance applies to the land, not just the applicant, and shall be binding upon the applicant, its successors in interest and assigns. If a Variance is granted, the Board may impose any conditions deemed necessary by the Board.

B. SPECIAL PERMIT – An Applicant must demonstrate:

1. The specific site is an appropriate one for such a use or structure and would not impair the status of the neighborhood.
2. Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including adequate off-street parking. Except for residences requiring fewer than five stalls, adequacy of proposed off-street parking facilities shall be determined by the Planning Board, in accordance with the provisions of Sections IV.A., IV.B., IV.C. and V.E. of the Zoning By-Law.
3. The use or structure as developed will not create a hazard to abutters, vehicles or pedestrians.
4. The use or structure is consistent with the intent of the district in which the use is proposed and with the purpose and intent of the By-Law.
5. All municipal services necessary to meet the needs of the proposed use must be adequate and sufficient.

The terms, conditions and provisions of a Special Permit usually apply only to the applicant and shall be binding upon the applicant. If a Special Permit is granted, the Board may impose the following conditions or any other conditions deemed necessary:

1. Requirement of screened parking areas or other parts of the premises from adjoining premises or from the street by walls, fences, planting or other devices.
2. Modification of the exterior features or appearance of the structure.
3. Limitation of size, number of occupants, method or time of operation or extent of facilities.
4. Regulation of number, design and location of access drives or other traffic features.
5. A bond or other security to ensure compliance with the conditions of authorization.

The applicant and the owner(s) of land will be responsible for mitigation measures or conditions which are required as part of a favorable decision for issuance of a Special Permit.

C. FINDING – An Applicant must demonstrate:

1. If the proposed expansion is within the footprint of a lawful, pre-existing nonconforming structure, the Applicant must convince the Board that the proposed alteration or addition will not increase the amount of the nonconformity. In such cases, the Board may find that the proposed alteration or extension does not increase the nonconforming nature of said structure.
2. If the Board finds that the proposal *will* increase the amount of the nonconformity, the applicant must convince the Board that the proposal is not substantially more detrimental to the neighborhood than the lawful pre-existing nonconforming structure.

PLEASE NOTE - MGL, Ch. 40A, §6 states that the Zoning By-law does not apply where the alteration of a one- or two-family house does not "increase the nonconforming nature" of the structure. In Framingham, the Building Commissioner refers these requests to the Zoning Board of Appeals for a Section 6 Finding. If the Board finds that the proposal will result in additional nonconformities, the Applicant has the option of filing an application for a Variance.

FINAL DECISION

Once the hearing is closed, the Board will vote on whether to grant the requested Special Permit or Variance, usually at a subsequent meeting of the ZBA.

Chapter 40A of the Massachusetts General Laws requires that a decision be filed within one-hundred (100) days of receipt of the application for a variance. Chapter 40A of the Massachusetts General Laws requires that a decision be filed within ninety (90) days of the close of the public hearing for a special permit. The ZBA will file its decision with the Town Clerk before the filing deadline. Once the decision is filed with the Town Clerk, the following occurs:

- Upon filing with the Town Clerk, a 20-day appeal period commences.
- At the end of the 20-day appeal period, the applicant should check with the Town Clerk to see if anyone has appealed the decision of the ZBA.
- If an appeal has been made, a separate legal process commences and the applicant should notify their legal counsel.
- If no appeals have been made, the applicant must obtain a letter from the Town Clerk stating that no appeals have been filed with the Town Clerk.
- Once that has been done, the Applicant must bring the original copy of the decision and the letter from the Town Clerk to the Registry of Deeds and record the decision. The applicant must obtain evidence of the recording of the decision while at the Registry of Deeds office.
- Once all of the above has occurred, the applicant must provide evidence of the decision recording to the Building Department when they file an application for a building permit.

In the event you are ultimately granted a Special Permit, please be aware that the rights authorized by the Special Permit **will lapse if they are not exercised within two years of the date of filing of the Decision with the Town Clerk.**

In the event you are ultimately granted a Variance, the rights authorized by the variance will lapse if they are not exercised within one year of the date of filing of the Decision with the Town Clerk.

EXTENSION

The Board in its discretion and upon written application by the Applicant may extend the time for exercise of such rights for a period not to exceed six (6) months. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration date. The Board herewith reserves its rights and powers to grant or deny such extension, and to require any appropriate changes to this approval. If the Board does not grant such an extension within thirty days of the date of application therefore, and upon the expiration of the original time period, such rights may be re-established only after notice and a new hearing pursuant to MGL, Ch. 40A, §9.

Town of Framingham – Zoning Board of Appeals
Applicant Check List Form

Assembling information to submit with your application:

Sixteen (16) stapled packets must be submitted to the ZBA office when filing an application for a hearing.

A packet will consist of one of each of the following documents:

- ☐ A COPY of the original completed 1st page of the ZBA application
- ☐ A COPY of the original denied Building Permit
- ☐ A COPY of the letter from the Building Commissioner explaining why your permit was denied, if applicable
- ☐ A COPY of the certified plot plan
- ☐ A COPY of any construction plan/site plan, etc.

(Please keep original documents together, but do not staple them. Thank you!)

Please call the ZBA office @ 508-628-1306 if you have any questions on filing an application with the Zoning Board of Appeals.